UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,082	10/17/2001	Christopher Piche	E201 0010	3163

720	7590	09/14/2005		

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EXAMINER
BATURAY, ALICIA

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/978,082	PICHE ET AL.
	Examiner	Art Unit	
	Alicia Baturay	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *21 July 2005*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-4* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-4* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *17 October 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to the amendment filed 21 July 2005.

2.   Claims 1-4 were amended.

3.   Claims 1-4 are pending in this Office Action.

Response to Amendment

4.   The objection to the claims regarding minor informalities was not addressed and still remains.

5.   The double patenting rejection was not addressed and still remains.

Drawings

6.   The drawings are objected to because Fig. 1 contains unlabeled elements that should be provided with descriptive text labels. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top

margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the

changes are not accepted by the examiner, the applicant will be notified and informed of any

required corrective action in the next Office action. The objection to the drawings will not be

held in abeyance.

Claim Objections

7.   Claims 1-4 are objected to because of the following informality: they are written in an

outline format (a), b), etc.), and should be written in sentence form. Appropriate correction is

required.

8.   Claim 4 is objected to because of the following informality: the second step states "the

computer usable medium having computer readable program code means embodied in the

medium, adding received..." It is believed Applicant meant to write "the computer usable

medium having computer readable program code means embodied in the medium, adding

messages received..." Appropriate correction is required.

Double Patenting

9.   Claims 1-4 of this application conflict with claims 1-4 of Application No. 10/415,153. 37

CFR 1.78(b) provides that when two or more applications filed by the same applicant contain

conflicting claims, elimination of such claims from all but one application may be required in

the absence of good and sufficient reason for their retention during pendency in more than

one application. Applicant is required to either cancel the conflicting claims from all but one

application or maintain a clear line of demarcation between the applications. See MPEP
§ 822.

10.   A rejection based on double patenting of the "same invention" type finds its support in

the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and

useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same

invention," in this context, means an invention drawn to identical subject matter. See *Miller*

v. Eagle Mfg. Co., 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA

1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by

canceling or amending the conflicting claims so they are no longer coextensive in scope. The

filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35

U.S.C. 101.

11.   Claims 1-4 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as

that of claims 1-4 of copending Application No. 10/415,153. This is a provisional double

patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

12.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13.   Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMoney

(U.S. 6,721,789) and further in view of Goldberg et al. (U.S. 5,692,213).

DeMoney teaches the invention substantially as claimed including a system for managing

storage accesses for multimedia streams including a disk scheduler that may have a

guaranteed rate queue for queuing storage requests in which requests are ordered according

to a deadline.

14.   With respect to claim 1, DeMoney teaches a method for improving the processing of a

plurality of queued animation over a computer network having a client and a server,

comprising:

Forming a queue of server messages at the client (DeMoney, col. 10, lines 31-34); adding

messages received from the server queue (DeMoney, col. 11, lines 30-32); calculating a

minimum deadline of the messages in the queue (DeMoney, col. 11, lines 51-58); calculating

the time required to play all the currently queued animations (DeMoney, col. 11, lines 63-

65).

DeMoney does not explicitly teach accelerating the multimedia stream.

However, Goldberg teaches if the time required to play all the currently queued animations is greater than the minimum deadline of the server messages in the queue, accelerating the animation (Goldberg, col. 6, lines 34-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeMoney in view of Goldberg in order to enable accelerating the multimedia stream. One would be motivated to do so in order to allow a user to "catch up" to the current portion in the presentation before a network lag.

15.   With respect to claim 2, DeMoney teaches a method for improving the processing of a plurality of queued animation over a computer network between first and second clients, comprising:

Forming a queue of messages from the first client at the second client (DeMoney, col. 10, lines 31-34); adding messages received from the first client to the queue at the second client (DeMoney, col. 11, lines 30-32); calculating a minimum deadline of the messages in the queue (DeMoney, col. 11, lines 51-58); calculating the time required to play all the currently queued animations (DeMoney, col. 11, lines 63-65).

DeMoney does not explicitly teach accelerating the multimedia stream.

However, Goldberg teaches if the time required to play all the currently queued animations is greater than the minimum deadline of the server messages in the queue, accelerating the animation (Goldberg, col. 6, lines 34-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeMoney in view of Goldberg in order to enable accelerating the

multimedia stream. One would be motivated to do so in order to allow a user to "catch up" to the current portion in the presentation before a network lag.

16.   With respect to claim 3, DeMoney teaches discloses a computer program product for improving the processing of a plurality of queued animation over a computer network having a client and a server, the computer program product comprising:

A computer usable medium having computer readable program code means embodied in the medium for forming a queue of server messages at the client (DeMoney, col. 10, lines 31-34); the computer usable medium having computer readable program code means embodied in the medium, adding messages received from the server queue (DeMoney, col. 11, lines 30-32); the computer usable medium having computer readable program code means embodied in the medium for calculating a minimum deadline of the messages in the queue (DeMoney, col. 11, lines 51-58); the computer usable medium having computer readable program code means embodied in the medium for calculating a time required to play all the currently queued animations (DeMoney, col. 11, lines 63-65).

DeMoney does not explicitly teach accelerating the multimedia stream.

However, Goldberg teaches the computer usable medium having computer readable program code means embodied in the medium for determining if the time required to play all the currently queued animations is greater than the minimum deadline of the server messages in the queue, accelerating the animation (Goldberg, col. 6, lines 34-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeMoney in view of Goldberg in order to enable accelerating the

multimedia stream. One would be motivated to do so in order to allow a user to "catch up" to the current portion in the presentation before a network lag.

17.   With respect to claim 4, DeMoney teaches a method for improving the processing of a plurality of queued animation over a computer network between a first client and a second client, the computer program product comprising:

A computer usable medium having computer readable program code means embodied in the medium for forming a queue of messages from the first client at the second client (DeMoney, col. 10, lines 31-34); the computer usable medium having computer readable program code means embodied in the medium, adding messages received from the first client messages to the queue at the second client (DeMoney, col. 11, lines 30-32); the computer usable medium having computer readable program code means embodied in the medium for calculating a minimum deadline of the messages in the queue (DeMoney, col. 11, lines 51-58); the computer usable medium having computer readable program code means embodied in the medium for calculating the time required to play all the currently queued animations (DeMoney, col. 11, lines 63-65).

DeMoney does not explicitly teach accelerating the multimedia stream.

However, Goldberg teaches the computer usable medium having computer readable program code means embodied in the medium for determining if the time required to play all the currently queued animations is greater than the minimum deadline of the server messages in the queue, accelerating the animation (Goldberg, col. 6, lines 34-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeMoney in view of Goldberg in order to enable accelerating the multimedia stream. One would be motivated to do so in order to allow a user to "catch up" to the current portion in the presentation before a network lag.

Response to Arguments

18.   Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

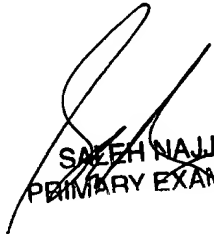## *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at 7:30am - 5pm, Monday - Thursday, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alicia Baturay
September 7, 2005

SALEH NAJJAR
PRIMARY EXAMINER